

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV 18-1830-MWF (JPRx)

Date: May 1, 2019

Title: Matt Furie v. Infowars, LLC, et al.

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:
Rita Sanchez

Court Reporter:
Not Reported

Attorneys Present for Plaintiff:
None Present

Attorneys Present for Defendant:
None Present

Proceedings (In Chambers): ORDER RE: UNDISCLOSED EVIDENCE

On May 6, 2019, at 10:00 a.m., the Court is holding a hearing on Plaintiff's Motion for Partial Summary Judgment (the "Motion").

In the Reply, Plaintiff indicates that, in opposing the Motion, Defendants Infowars, LLC and Free Speech Systems, LLC relied upon evidence that they did not previously disclose during discovery. (Docket No. 107). Plaintiff explains that his discovery requests previously asked for all documents concerning Defendants' contentions in their Answer that the copyright registration of *Pepe in Blue Shirt* is invalid. (*Id.* at 5). While responding with some documents, Defendants failed to identify or produce any of what is now included as Exhibits 2–12, 14–15, 17, and 18 to the Opposition. Defendants also offer no explanation for why they failed to produce these exhibits during discovery.

The Court takes seriously the parties' discovery obligations under Federal Rule of Civil Procedure 26. Rule 37 provides that where a party fails to offer information as required by Rules 26(a) and 26(e), the party is not allowed to use that information as evidence on a motion unless the failure was substantially justified or harmless. Fed. R. Civ. P. 37(c)(1).

At the hearing, Defendants should be prepared to address why the undisclosed evidence—specifically Exhibits 2–12, 14–15, 17, and 18 attached to their Opposition—should not be disregarded in the Court's ruling on the Motion.

IT IS SO ORDERED.